

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**DEFENDANT MICHAEL RAND'S MOTION TO COMPEL
GOVERNMENT EXHIBITS USED IN THE FIRST TRIAL**

Defendant Michael Rand respectfully files this motion to compel the government to produce copies of the government's exhibits 1, 2A, 6A, 8, and 9 from the first trial. The government used these five exhibits with witnesses during its case in chief. *See* Trial Tr. 155-59 (exhibit 1); 2047-49 (exhibit 2A); 2044-46 (exhibit 6A); 1587-90, 1620-22 (exhibit 8); 1910-12 (exhibit 9). The defense does not have copies of these exhibits, and the government has refused to provide them.¹

The requested exhibits are part of the public record from the first trial. Without copies of the exhibits, the defense cannot make sense of important parts of the trial transcript. For example, Exhibit 1 is a timeline used with Deborah Danzig to walk through events in the government's obstruction case, Tr. 155-59, and Exhibit 8 is a chart used with Corbin Adams to explain the structure of a sale-leaseback transaction, Tr. 1587-90. Both charts cover key elements of the government's case, and neither can be

¹ Because the government's refusal took place within the past several days, the defense was not in a position to file this motion until this time.

recreated from the high-level descriptions in the transcript.² When the defense requested copies of these exhibits, the government refused to provide them, explaining that it would not produce copies of exhibits used during the trial but not admitted into evidence—namely, exhibits 1, 2A, 6A, 8, and 9.

The government's position is indefensible. These exhibits are not the exclusive property of the U.S. Attorney's Office. They are part of the public record, regardless of whether they were admitted in evidence. The government should not be permitted needlessly to frustrate the defense's ability to prepare for the second trial by withholding exhibits it displayed publicly in the courtroom and used with witnesses, particularly where, as here, the request is for a limited number of easily identified exhibits.

Respectfully submitted this 4th day of April, 2014.

² Exhibits 2A, 6A, and 9 appear to be larger versions of other exhibits in the defense's possession. The defense offered that, in lieu of providing copies of those exhibits, the government simply confirm that those exhibits contain no marks or other alterations not present on the other exhibits. The government declined to do so.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CASE NO. 3:10-CR-182
)
 MICHAEL T. RAND,)
)
 Defendant.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing MOTION TO COMPEL GOVERNMENT EXHIBITS USED IN THE FIRST TRIAL with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the attorneys of record.

This 4th day of April, 2014.

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